

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Environmental laboratories: State Water Resources Control Board:
fee regulations.

Existing law, the Environmental Laboratory Accreditation Act, requires certain laboratories that conduct analyses of environmental samples for regulatory purposes to obtain a certificate of accreditation from the State Water Resources Control Board. The act requires an accredited laboratory to report, in a timely fashion and in accordance with the request for analysis, the full and complete results of all detected contaminants and pollutants to the person or entity that submitted the material for testing. The act authorizes the board to adopt regulations to establish reporting requirements, establish the accreditation procedures, recognize the accreditation of laboratories located outside California, and collect laboratory accreditation fees. The act requires that fees collected for laboratory accreditation be adjusted annually, as specified. The act requires fees and civil penalties collected under the act to be deposited in the Environmental



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Laboratory Improvement Fund and that moneys in the fund be available for expenditure by the board, upon appropriation by the Legislature, for the purposes of the act.

This bill would require the board to adopt, by emergency regulations, a schedule of fees and to set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the fund for expenditure for the administration of this article, as prescribed. This bill would require the board to review and revise the fees, as necessary, each fiscal year.

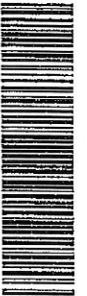
Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



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An act to amend Sections 100829, 100860.1, and 100862 of the Health and Safety Code, relating to environmental laboratories.



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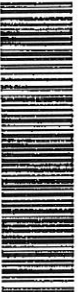
THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 100829 of the Health and Safety Code is amended to read:

100829. ~~The department~~ State Water Resources Control Board may do all of the following related to accrediting environmental laboratories in the state:

- (a) Offer both state accreditation and NELAP accreditation, which shall be considered equivalent for regulatory activities covered by this article.
- (b) Adopt regulations to establish the accreditation procedures for both types of accreditation.
- (c) Retain exclusive authority to grant NELAP accreditation.
- (d) Accept certificates of accreditation from laboratories that have been accredited by other NELAP-recognized accrediting authorities.
- (e) Adopt regulations to establish procedures for recognizing the accreditation of laboratories located outside California for activities regulated under this article.
- (f) ~~(1) Adopt fee regulations for the collection of laboratory accreditation fees under Sections 100860.1 and 100862.~~
 - ~~(2) Fees collected under this section shall be adjusted annually as provided in Section 100425. The adjustment shall be rounded to the nearest whole dollar.~~
 - ~~(3) Fees shall be set for the two types of accreditation provided for in subdivision (a).~~
 - ~~(4) Programs operated under this article shall be fully fee-supported.~~

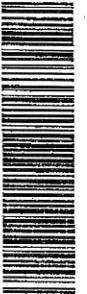
SEC. 2. Section 100860.1 of the Health and Safety Code is amended to read:



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100860.1. (a) At the time of application for ELAP certification and annually thereafter, from the date of the issuance of the certificate, a laboratory shall pay an ELAP certification fee. ~~This fee shall consist of a base or administrative fee and a fee for each of the ELAP fields of testing listed below for which the laboratory has requested ELAP certification. These fees shall be nonrefundable and adopted in regulations, and shall be sufficient to allow the ELAP program to be fully fee-supported. The fields of testing for ELAP certification and their code numbers are the following: fee, according to a fee schedule established by the State Water Resources Control Board.~~

- ~~(E101) Microbiology of drinking water.~~
- ~~(E102) Inorganic chemistry of drinking water.~~
- ~~(E103) Toxic chemical elements of drinking water.~~
- ~~(E104) Volatile organic chemistry of drinking water.~~
- ~~(E105) Semi-volatile organic chemistry of drinking water.~~
- ~~(E106) Radiochemistry of drinking water.~~
- ~~(E107) Microbiology of wastewater.~~
- ~~(E108) Inorganic chemistry of wastewater.~~
- ~~(E109) Toxic chemical elements of wastewater.~~
- ~~(E110) Volatile organic chemistry of wastewater.~~
- ~~(E111) Semi-volatile organic chemistry of wastewater.~~
- ~~(E112) Radiochemistry of wastewater.~~
- ~~(E113) Whole effluent toxicity of wastewater.~~
- ~~(E114) Inorganic chemistry and toxic chemical elements of hazardous waste.~~
- ~~(E115) Extraction test of hazardous waste.~~



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~~(E116) Volatile organic chemistry of hazardous waste.~~

~~(E117) Semi-volatile organic chemistry of hazardous waste.~~

~~(E118) Radiochemistry of hazardous waste.~~

~~(E119) Toxicity bioassay of hazardous waste.~~

~~(E120) Physical properties of hazardous waste.~~

~~(E121) Bulk asbestos analysis of hazardous waste.~~

~~(E122) Microbiology of food.~~

~~(E123) Inorganic chemistry and toxic chemical elements of pesticide residues in food.~~

~~(E124) Organic chemistry of pesticide residues in food (measurements by MS techniques).~~

~~(E125) Organic chemistry of pesticide residues in food (excluding measurements by MS techniques).~~

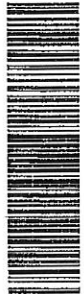
~~(E126) Microbiology of recreational water.~~

~~(E127) Air quality monitoring.~~

~~(E128) Shellfish sanitation.~~

~~(b) In addition to the payment of ELAP certification fees, laboratories located outside the State of California shall reimburse the department for travel and per diem necessary to perform onsite inspections.~~

~~(c) If reciprocity with another jurisdiction is established by regulation as described in Section 100830, the regulations may provide for the waiver of certification fees for program activities considered equivalent.~~



~~(d) Fees collected under this section shall be adjusted annually as specified in Section 100425. The adjustment shall be rounded to the nearest whole dollar. It is the intent of the Legislature that the programs operated under this article be fully fee-supported.~~

(b) In addition to the payment of fees pursuant to subdivision (a), a laboratory submitting an application authorized by this article shall submit an application fee, according to a fee schedule established by the state board.

~~(e)~~

~~(c) State and local government-owned laboratories in California established under Section 101150 or performing work only in a reference capacity as a reference laboratory are exempt from the payment of the fee fees prescribed under subdivision (a) subdivisions (a) or (b).~~

~~(f) In addition to the payment of certification fees, laboratories certified or applying for certification in fields of testing for pesticide residues in food shall pay a fee directly to the designated proficiency testing provider for the cost of each proficiency testing sample set.~~

~~(g)~~

(d) In addition to the payment of certification fees, fees authorized by this section, laboratories certified or applying for certification shall pay directly to the designated proficiency testing provider the cost of the proficiency testing study.

~~(h)~~

(e) For the purpose of this section, a reference laboratory is a laboratory owned and operated by a governmental regulatory agency for the principal purpose of analyzing



~~samples referred for confirmatory analysis by other laboratories for confirmatory analysis. Reference laboratories carry out quality assurance functions for other laboratories and may carry out unusual, highly specialized, and difficult analyses not generally available through commercial laboratories, and a limited number of routine analyses, for regulatory purposes only, and without assessing per-sample fees for the services; another governmental regulatory agency or another laboratory.~~

(i) ~~This section shall become operative January 1, 2002.~~

(f) The state board shall adopt, by emergency regulation, a schedule of fees, as authorized by this section. The emergency regulations may include provisions concerning the administration and collection of the fees.

(g) The state board shall set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the Environmental Laboratory Improvement Fund for expenditure for the administration of this article, taking into account the reserves in the Environmental Laboratory Improvement Fund. The state board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated by the Legislature. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature, the state board may further adjust the fees to compensate for the over or under collection of revenue.

(h) The emergency regulations adopted pursuant to this section, any amendment to those regulations, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of



Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, are not subject to review by the Office of Administrative Law and remain in effect until revised by the state board.

SEC. 3. Section 100862 of the Health and Safety Code is amended to read:

100862. (a) At the time of application for NELAP accreditation and annually thereafter, from the date of the issuance of the accreditation, a laboratory shall pay a base fee and a fee for each of the NELAP fields of testing listed below for which a laboratory has requested NELAP accreditation. ~~The fees shall be nonrefundable and set in regulations, and shall be sufficient to allow the NELAP program to be fully fee supported. The fields of testing for NELAP accreditation and their code numbers are all of the following:~~ NELAP accreditation fee, according to a fee schedule established by the state board.

~~(N101) Microbiology of drinking water.~~

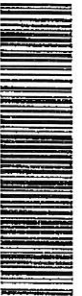
~~(N102) Inorganic chemistry of drinking water.~~

~~(N103) Toxic chemical elements of drinking water.~~

~~(N104) Volatile organic chemistry of drinking water.~~

~~(N105) Semi-volatile organic chemistry of drinking water.~~

~~(N106) Radiochemistry of drinking water.~~



- ~~(N107) Microbiology of wastewater.~~
- ~~(N108) Inorganic chemistry of wastewater.~~
- ~~(N109) Toxic chemical elements of wastewater.~~
- ~~(N110) Volatile organic chemistry of wastewater.~~
- ~~(N111) Semi-volatile organic chemistry of wastewater.~~
- ~~(N112) Radiochemistry of wastewater.~~
- ~~(N113) Whole effluent toxicity of wastewater.~~
- ~~(N114) Inorganic chemistry and toxic chemical elements of hazardous waste.~~
- ~~(N115) Extraction test of hazardous waste.~~
- ~~(N116) Volatile organic chemistry of hazardous waste.~~
- ~~(N117) Semi-volatile organic chemistry of hazardous waste.~~
- ~~(N118) Radiochemistry of hazardous waste.~~
- ~~(N119) Toxicity bioassay of hazardous waste.~~
- ~~(N120) Physical properties of hazardous waste.~~
- ~~(N121) Bulk asbestos analysis of hazardous waste.~~
- ~~(b) Fees for NELAP accreditation shall be adjusted annually as specified in~~

~~Section 100425.~~

(b) In addition to the payment of fees pursuant to subdivision (a), a laboratory submitting an application authorized by this article shall submit an application fee, according to a fee schedule established by the state board.

(c) In addition to the payment of accreditation fees, fees authorized by this section, laboratories accredited or applying for accreditation shall pay directly to the designated proficiency testing provider the cost of the proficiency testing studies.



(d) The state board shall adopt, by emergency regulation, a schedule of fees, as authorized by this section. The emergency regulations may include provisions concerning the administration and collection of the fees.

(e) The state board shall set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the Environmental Laboratory Improvement Fund for expenditure for the administration of this article, taking into account the reserves in the Environmental Laboratory Improvement Fund. The state board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated by the Legislature. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature, the state board may further adjust the fees to compensate for the over or under collection of revenue.

(f) The emergency regulations adopted pursuant to this section, any amendment to those regulations, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board

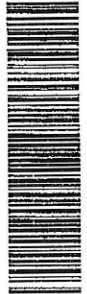


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pursuant to this section, are not subject to review by the Office of Administrative Law
and remain in effect until revised by the state board.

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